

**AMESBURY CONSERVATION COMMISSION  
MONDAY, DECEMBER 2, 2013 6:30 P.M.  
CITY HALL AUDITORIUM – 62 FRIEND STREET**

**PRESENT:** Steve Langlois, Chair, Michael Bik.

**ABSENT:** Jack Tremblay

**ALSO PRESENT:** John Lopez, Agent, Paul Bibaud, Recording Secretary

**MEETING CALLED TO ORDER AT 6:40 P.M.**

**MINUTES: November 4, 2013**

**Motion** by Michael Bik to approve the minutes as presented. Motion was seconded by Steve Langlois. All in favor.

**ADMINISTRATIVE:**

**DRAFT of 2014 Meeting Schedule. Unanimously approved.**

**Dock – Lake Attitash, Star Lane (McDermott)**

**Issue has been resolved. This item has been cancelled due to resolution.**

**ENFORCEMENT ORDER- 131 Kimball Road (Leslie)**

**John Lopez:** This is in support of the unauthorized removal of vegetation along the immediate shoreline to Lake Attitash. Enforcement order was issued, requiring the property owner to submit a restoration plan. That plan was submitted, all the conditions were met in terms of providing a watering schedule, planting schedule, and a selection of winterberry as the plant. I feel this is ready to be approved.

**Motion** by Michael Bik to approve the draft restoration plan, pursuant to the enforcement order. Motion was seconded by Steve Langlois. Vote was unanimous.

**ENFORCEMENT ORDER- 95 Haverhill Road (Shaheen)**

**John Lopez:** This agenda item has been continued to the Jan. 6, 2014 meeting.

**VIOLATION NOTICE- 10 Strathmere Club (Doughty)**

**John Lopez:** This comes as a complaint for the unauthorized removal of some northern hemlock trees as well as some clearing of vegetation. The property owners are here to explain things. I discussed with them what usually takes place under such conditions that an enforcement order would likely be issued, requiring a restoration plan, which is consistent with all the other issues that are similar to this. They are in agreement. They are relatively new to this location and indicated that they just didn't know. They can brief the commission.

**Anita and Paul Doughty, owners of 10 Strathmere Club:**

John has explained the restoration plan to us. We understand we have to propose some sort of mitigation for what was taken down. We want to restore our patio which exists but is in disrepair, along with describing the restoration plantings. We're looking right now at Landscaping Depot in Kingston for this project. The hemlocks we took down were of oversized Christmas tree size.

**John Lopez:** The Doughtys have indicated that they would contract out with a landscaper, because they also want to replace their patio, which could be considered mitigation because they are going to remove impervious material and replace it with pervious material. We can discuss ideas and it'll be fine. They will get what they want, an improved yard, and we'll get what we want, which is a yard better suited for flood retention, etc. The commission should vote on issuing an enforcement order, which would include a date certain for the restoration plan. The growing season around here starts about April 15, so I would like to have this finalized by the advent of the growing season.

A discussion of ACC meeting dates for the submittal of their restoration plan, which has a deadline prior to the actual meeting of the commission. The March third meeting has a deadline for that of a February 18 submittal of their plan. This schedule was agreed upon by all parties.

**John Lopez:** With that settled, the commission should issue an enforcement order with the stipulation that a restoration plan be submitted by the deadline for the March 3 meeting, which is February 18.

**Michael Bik:** I make a motion to issue an enforcement order on 10 Strathmere Club, to move forward with a mitigation plan that will be heard at the March 3, 2014 meeting and to be presented to the agent by the deadline of February 18. Motion was seconded by Steve Langlois. Vote was unanimous.

#### **APPEAL ON NEGATIVE DETERMINATION OF APPLICABILITY- 68 Lake Attitash Road (Dow)**

**John Lopez:** Several months ago, the commission reached a negative determination approving the installation of a fence at 68 Lake Attitash Road. The commission deliberated and determined that said installation of the fence was of a minor consequence and did not pose any significant alteration of the resource. An abutter appealed the decision to DEP. DEP conducted a public site visit, which included the fence owner, myself the agent, who represented the Conservation Commission, and the city engineer was present to provide technical responses to technical questions concerning flood zone elevation and flood plain, if they were asked. The site visit was conducted, and DEP is now finalizing their determination and they will send letters out once completed. So the options are whether they will uphold the commission's decision, or return the commission's decision requiring the property owner to submit a Notice of Intent and go through the NOI process. Also, the abutter wrote a letter to the Conservation Commission, voicing her displeasure with the way the site visit was conducted. She requested that a copy of the letter be forwarded to the acting section chief of the northeast region for DEP. The letter was forwarded. Commissioners got a copy of that letter, as well. It was forwarded to the town clerk for filing, also.

So we have to wait for DEP findings and we'll see where we go from there.

#### **WAIVER REQUEST INQUIRY- 42 Birchmeadow Road (Wojcicki)**

**John Lopez:** This is for the proposed replacement of an existing structure that is in advanced state of deterioration, according to the property owner. The applicant is seeking input on a waiver request, specifically waiving the request to have the structure placed on piles for any structure within 35 feet of a wetland. I point out that this is only an inquiry, you don't necessarily have to grant the waiver tonight. But the applicant's representative just wants to get some feedback.

**John Paulsen, Atlantic Engineering:** We have a house that was built in 1930, before zoning and conservation regulations. It is poorly constructed and structurally unsound at this point. Mr. Wojcicki is looking to tear the house down and rebuild on the property. We are looking to do is the regulation that requires to have no foundation within section 21.7 on structures. We're looking to have a foundation and a porch that is closer than is allowed. But both of those things are further than what they are now. We have several reasons for asking for this. The slope of the property goes from Birchmeadow Road is up at elevation 114, and then the wall down at the lake is at elevation 98, so there is considerable slope. We're looking to make use of the slope by having from the street side, the house will look like a cape. We'd use the first floor living area. We've raised that first floor up so that it has positive drainage from the house towards the street. Right now, the first floor of the house is set down 5 or 6 feet from the level of the street, which is problematic in itself. We don't want to raise the house up to 2 ½ stories, then have all this ground underneath, so we're looking to have the main floor up near the elevation of the street, and we'll actually going to use the floor underneath it for bedrooms, then underneath that will be the basement. So we're looking to use the full slope of the property and make the best use of the property's form, and also, by not having the house as high, it will keep it so that the people across the street will keep some view which they currently enjoy. If it is a cape, it will look like a 1 ½ story from the street. Putting the house the way we are showing it, requires minimal grading as long as we have the foundation in. On the left hand side of the drawing of the house, We're looking at putting in a swale, a stone trench, to help do some infiltration over on that side. It works better with a foundation than not having it. We could then take and have a garage put in, although we have enough parking out in the front without it. Being able to do the house this way, we're actually going to reduce the impervious area on the lot by a considerable amount. Going over the setbacks, the porch on the lake side, the existing setback to the lake (not to the property line but to the lake which is a stone wall) is 21.8 feet. We're proposing it at 23.6 feet, so it's increasing a little bit. The existing dwelling, we're going to maintain that at the 31.5 feet that it is now, so we're not doing any worse than what exists. The existing impervious on the lot is 2709 square feet. The proposed is going to be 2332 square feet. So we're taking 337 feet out of the site by doing it this way, which is almost 14%. Also, by doing this with the grading and raising the house up to the elevation we want for the first floor, it allows us to put the driveway in and I can catch the driveway water and put it over into an infiltrator that is on the front right hand side of the yard when you look at the picture. So the infiltrators will infiltrate. There is an overflow pipe already there that will serve as the overflow to the filtration.

**Steve Langlois:** You are asking us to waive a bylaw of the town's 35 foot zone. You're also asking to put in a deck that is going to be at 23.6, so you're going to be 12 feet into the ...

**John Paulsen:** Basically, the same as it is now.

**Steve Langlois:** We have waived things in the past, usually for absolute need, or if it's just a foot or two and it is messing things up, that's fine. I just don't feel right now that I have a good feel of what this project is, with just this one plan. If we waived the 35 feet, you still have to come before us with a Notice of Intent.

**John Paulsen:** Part of the question on this is, given that is an existing house, and it is in disrepair, do we take and maintain the existing house and rehab it, which is not financially feasible but you can't build a house here and meet the regulations and have a house a viable size. Then you have it open underneath that is just going to be collecting unwanted guests.

**Steve Langlois:** If you put the house, doing all the construction, at the 35 foot line, what would that hinder from your new construction, if you had to put it there?

**John Paulsen:** It would take the lower level away. Then we were going to go up 2 ½ stories, so it's going to be 2 ½ stories above street grade. So appearance from the street is one thing, impacting the people across the street, making it higher for them, and the house would then look very high from the lake, because it would appear to be 4 ½ stories from the lakeside, which I don't think would be desirable. And that 1 ½ story down below is going to be an open crawl space, because you couldn't use it. I probably would have to, in order to create the structure for it, I'd have to do more walls and more grading on the rest of the property in order to facilitate this setback requirement, where I'm using the house as the wall to create that grading now and to facilitate that, I'd have to do other walls to keep an open foundation.

**Steve Langlois:** The existing structure now...how many square feet? The foundation plan?

**John Paulsen:** The existing house is about 915 square feet for a footprint. The proposed is 1182 square feet, but we are making it up that size plus a lot more in impervious by taking away a bunch of pavement that is out there. That is where we get the reduction of 337 square feet. The top of the wall is the FEMA flood zone, so this is not in that flood zone. That wall top elevation is at 98 feet, then the lawn.

**Steve Langlois:** What type of house is there now?

**John Paulsen:** It's a cottage construction that has been added on to over the course of time. It's low to the street.

**John Lopez:** Maybe a site visit would be appropriate.

**Steve Langlois:** I just don't feel like I can waive something just by looking at a piece of paper.

**John Paulsen:** Considering the waiver to put a new house there, replacing the old house, or do we come in for the Notice of Intent to take and rehab the whole house, because it's already there. Either way, there is going to be a structure there that is going to be improved, and I would think new construction and reducing the amount of paving, putting in infiltration by the street, and keeping the house lower, doing all those things is a benefit to keeping the old house there.

**Steve Langlois:** Going back to the infiltration, right now there is nothing there. This infiltration is ...

**John Paulsen:** We have a catch basin near the edge of the driveway, and it's going to cross the front lawn and go into two infiltrators that are replacing the existing catch basin that is in grass, not doing a whole lot. It's plugged. There is an existing drain going to the lake, coming from that catch basin. It's plugged, but we still plan to use it, but only as an overflow.

**Steve Langlois:** I'd just like to be able to take a peak at this, just to get a better feel for it. Then we can continue this to the next meeting.

**John Lopez:** Technically, this is not subject to the open meeting laws, because there is nothing before the commission. So you are free to discuss this with the applicant in the filed and come to an agreement. The formal waiver would have to be done, but you can provide the applicant with guidance before.

**It was decided that the commission would meet with Mr. Paulsen to discuss it and look at the site.**

Steve Langlois will call Mr. Paulsen with possible dates and times to meet, probably a Saturday morning.

## **ENDORSE BILL 2013-088 TO ACCEPT PARCEL B AT QUIMBY LANE- VOTE TO APPROVE AND RATIFY**

**John Lopez:** This is in regards to a parcel of land that Mr. Couillard and his company have gifted to the town. The commission just signed the paperwork.

**Motion** by Michael Bik to endorse bill #2013-088 to approve and ratify this bill for the city to accept parcel B. Motion was seconded by Steve Langlois. Vote was unanimous.

**CONTINUED BUSINESS:**

**ANRAD- 157 CONGRESS STREET (CORMIER)  
CONTINUED TO JANUARY 6, 2014.**

**NOI -#002-XXXX 12 Old Merrill Road (Toth)  
CONTINUED TO JANUARY 6, 2014**

**RCoC #002- 1050- Route 110 (National Grid)**

**John Lopez:** This initially came before the ACC in the form of a Request for Determination of Applicability. The ACC determined that the proposed installation of poles along Route 110 within a wetland area required a Notice of Intent. A positive determination was reached, remanded to the applicant, and they in turn submitted a Notice of Intent to install a number of telephone poles along Route 110 corridor, as well as other related issues, such as installation of some anchoring for some of the poles, etc. They submitted a request for a Certificate of Compliance, meaning to bring the project to completion, almost two years ago. I conducted my site visit in support of their request, and at the time, they told me the project was done and it was ready for closure. Since then, they have continually requested a continuance. They have told me that there may be some additional work that's necessary. They have changed contractors. But this has gone on for two years, with no additional information supplied.

**Steve Langlois:** So they've changed what their orders were?

**John Lopez:** I don't know. All the work that I reviewed upon my initial site visit a few years ago was done in compliance. But since then, it's just been continued, over and over again. I think because of a lack of information, we should just deny the request for the Certificate of Compliance.

**Steve Langlois:** If they completed it two years ago, you went out there and it was completed, so they've waited this long to ask for it to be voted on, and they have what, three years?

**John Lopez:** Yes, for an open Order of Conditions, but I believe they indicated there was some other work that needed to be done, or ...

**Steve Langlois:** So you feel they have made some changes and we don't know about it?

**John Lopez:** That could be, yes. I don't know what they are doing.

**Steve Langlois:** Is this in a very touchy area, near a stream, or...

**John Lopez:** It was on a stream, yes. It is the stream that flows by the Chevrolet dealership and along that tributary to the Merrimack River. I guess that's the Powow River.

**Steve Langlois:** Would you be more comfortable if they had a representative show you what they did and then go forward?

**John Lopez:** I think they have had two years to show me. They only contact me when I contact them, asking them if they are ready to appear before the commission, or whether they want to continue. My last correspondence with them was that they have changed contractors and...so I think the simplest, cleanest thing to do is to deny them and start over again.

**Steve Langlois:** So that would mean they'd have to do another Notice of intent?

**John Lopez:** They would have to do another Request for Certificate of Compliance, with another As-Built plan.

**Steve Langlois:** Well, I don't think National Grid deserves to be given any special treatment over common citizens, so...we'd do the same thing to a citizen of Amesbury, so do the same thing for National Grid. So we're going to deny this request, based upon a lack of information. **Motion** was made by Michael Bik to deny the request for RCoC #002-1050 on Route 110 for National Grid. Motion was seconded by Steve Langlois. Vote was unanimous.

## **NEW BUSINESS:**

### **ANRAD – 56 and 58 South Hampton Road (Couillard)**

**John Lopez:** This is the request for a notice of resource area delineation to confirm a wetland line at 56 + 58 South Hampton Road. The applicant is here to discuss the latest proceedings.

**Buzz Couillard, Purchase and Sale holder on this land:** I'm merely requesting an ANRAD filing to be analyzed by Mill River, who, as John and I discussed, to designate as the consultant. We'd like to have Mill River go out and look at the wetland line and make sure it is per the wetland line that my guy has already delineated. There's nothing to look at yet.

**John Lopez:** Mr. Chairman, you'll recall that this is a subject of a conceptual phase review. The speaker has not submitted anything formal to the commission. A very conceptual phase plan was submitted just to get some initial feedback. The commission elected a peer consultant, Mill River Consulting, to provide some feedback. The feedback was provided, and that's a public document. So if anyone would like to see it, they can send me an e-mail or call me. I can send the report. But it is conceptual. There is nothing substantial to it. Substantial as it relates to a Notice of Intent, but it does have the wetland line delineated by Mr. Couillard's wetland specialist. Now it needs to be confirmed by Mill River. So this ANRAD before the commission is to confirm the wetland line, which sets off the foundation for any proposed project that the property owner will have and present to the commission. So I've taken the liberty of contacting Mill River Consulting, feeling the commission would like to be consistent and stay with Mill River, since they are doing the conceptual phase review. I also feel that, if the applicant submits a Notice of Intent for a project, that this would go through a further review, based upon the whole proposed project. But this is just to confirm the wetland line. I've taken the liberty of drafting a scope of review and I'm requesting the Conservation Commission approve the contract dated November 26, 2013.

**Steve Langlois:** I was looking over both the ANRAD and the pre-application, and obviously comments came up in the pre-application that are different than the ANRAD. I hope that Mr. Couillard realizes that, in the pre-application, that the Mill River Consulting has said that this is a piece of property that is going to have to be treated with kid gloves, because of the soils, the timing of when things are done, etc. Most likely, this commission is going to be looking for a very thorough project plan, and definitely stick to what we want.

**Buzz Couillard:** I think we have some experience in that area.

**Steve Langlois:** We do. As a buyer, you probably realize that this is probably going to be a bit more costly than another one. Like anything with the Conservation Commission, we're not here to deny people to do things, we just want them to do them so that the land remains or if it's changed, it holds value.

**Buzz Couillard:** I think we can accomplish that, when you see the final plan. Our engineers will work closely with Mill River. I think they'll solve any issues that arise. I'm optimistic we'll do a thorough job here.

**John Lopez:** Before taking a motion, I think there are abutter comments.

**Chris Lawrence, 55 South Hampton Road, abutter:** I just want to be clear that, once there is a plan in place, they will come back before the commission, and we'll receive another abutter's notice, if we want to comment at that point in time. He still has his work to do before, but there may be concerns down the road that I may want to hear about, especially about wetlands as well as drainage to my property. According to my property, I have a catch basin from South Hampton Road and Whittier Meadows that empties across the street. At times, it fills up and overflows. So it backs up. I just want to make sure things are happening to not make it any worse down the road.

**Steve Langlois:** That's why we have these meetings. Some things can't be worked out, because the land doesn't let you do it, but most times, if done correctly, we work it out. Abutters will be notified of each meeting, right, John?

**John Lopez:** Yes. The next meeting will entail the commission's wetland scientist. They will go out, review the site plan, and either agree with the applicant's wetland line, or they'll say no, not so fast, it has to be over here. So they'll change. They then bring those proposed changes back to the commission, who will approve them, making the wetland line legally binding for up to three years. Wetlands change. So the state only acknowledges a wetland delineation for three years. If the applicant proposes his project in four years time, it'll be invalid. He would have to three years to base a plan on the wetland line. That wetland line sets up buffer zones, and all the other things that can and can't be done with our regulations. Once he takes that approved wetland line, he'll come up with a plan for subdivision, or whatever he wants to do. That goes through a Notice of Intent, and that NOI goes through another round of public hearings. You'll all be notified, all will have abutter notification cards received, and the one thing the commission likes is that if you do have comments, you will be able to review the project, it's all public documents, you can come to our office to review the plans, and if you have comments, the commission always likes them to be in writing. That way, we can send your comments directly to the commission's consultant, because they are going to go through this all over again. Most likely, they will contract out with the same person, to review the proposed project based upon the Notice of Intent. So if you have written comments, it's all the better. It gets entered into the public record, and you can get a much more substantive response.

**Buzz Couillard:** One quick point, Mr. Chairman. We've already had a few discussions with DPW and the engineering department. Through those discussions, we've found that there is a problem downstream, near the school I guess is where it backs up a bit. I don't know that that is the cause of your back up, but I'm sure anything downstream would help upstream. I want the board aware that I'm hoping we have a unique situation here. The DPW has asked me to look into some open drainage, no curbs, and country swales. In lieu of that, to probably donate some money to a fund that they have a fund started downstream to relieve that problem, but they don't have enough money to do it...not that my money will solve the ultimate problem, but the best way to explore it. So that is something that will be coming before the board to look at, review and analyze it to see if it is worth it to everybody. It's important to me in two phases: the design phase with the Planning Board, of course, I've got to have those nailed down, so I wanted to bring it up since we've been talking to them about it, they'd like it done that way and like what they've seen so far. That may help everybody.

**John Lopez:** The conceptual plans that the applicant has submitted and has gone through a preliminary review, they're all public documents. So if you want to see them, just call me, or send me an e-mail.

**Mike Favolar, 64 South Hampton Road, upstream abutter:**

We have a horse farm. I'm curious about the wetland line delineation. When that determination is made by the city, will there be a site visit involved, and if so, can we, as abutters, come to the see where that determination is made?

**John Lopez:** Yes. The peer consultant will actually physically go out to the site, review the wetland line, take soil samples and dig, look at soils and vegetation, so yes, there will be someone there doing the physical work. As far as accessing the site, that is up to the property owner, as long as they don't mind.

**Steve Langlois:** Basically, once they delineate this, it'll be all flagged. (Mr. Couillard says it is already flagged). So they are just double checking the flags. When you come to the meeting, there will probably be a better plan here. Everything is public.

**John Lopez:** So I will coordinate a final time for the review with the applicant, and the applicant will contact you.

**Motion** by Michael Bik to approve the ANRAD contract with Mill River dated 11-26-13.

Motion was seconded by Steve Langlois.

Vote was unanimous.

**Motion** by Michael Bik to adjourn. Motion was seconded by Steve Langlois. Vote was unanimous.

Meeting adjourned at 7:35 P.M.